

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Order entered: 9/28/2007

**FOURTH ORDER RE: ENERGY EFFICIENCY CHARGE EXEMPTION MECHANISM**

**I. INTRODUCTION**

The Energy Efficiency Charge ("EEC") is a volumetric charge that is assessed on electric bills throughout Vermont. The funds collected via the EEC support cost-effective energy efficiency services delivered by Vermont's Energy Efficiency Utility ("EEU").<sup>1</sup> In 2005, new legislation required the Public Service Board ("Board") to establish a mechanism under which customers could apply for an exemption from paying some or all of the EEC amounts that they would otherwise owe.<sup>2</sup>

The Board's January 8, 2007, Order established the broad outlines of an EEC exemption mechanism and created a Working Group to provide recommendations to the Board on certain technical issues related to the mechanism.<sup>3</sup> The Working Group provided its recommendations to the Board on June 20, 2007. No workshop participant filed comments on the Working Group's recommendations.<sup>4</sup>

This Order rules on the issues addressed by the Working Group.

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1. Efficiency Vermont delivers the EEU's services throughout most of the State. The City of Burlington Electric Department ("BED") delivers most of the EEU's services in BED's service territory.

2. *See*, 30 V.S.A. § 209(d)(4).

3. The Board required Efficiency Vermont, BED, and the EEU Contract Administrator to participate in the Working Group. The Vermont Department of Public Service ("DPS"), other workshop participants, and members of the public were invited to participate. *See*, January 8, 2007, Order re EEC Exemption Mechanism at 18 (Order paragraph 5). In response to this invitation, representatives from the DPS, Associated Industries of Vermont, Central Vermont Public Service Corporation, Green Mountain Power Corporation, International Business Machines Corporation, Rock-Tenn Company, Vermont Marble Power Division of OMYA, Inc., Washington Electric Cooperative, Inc., and an energy efficiency consultant asked to be included on the Board's e-mail service list for the Working Group.

4. As explained in more detail in our January 8, 2007, Order re Energy Efficiency Charge Exemption Mechanism, the Board conducted an extensive workshop process to implement the provisions of the new legislation. Because this process was not a formal docket, there were no parties and no deadlines for intervention. Rather, anyone who wished could at any time participate in the proceedings. In this Order, we use the term "participants" to refer to all those who filed formal written comments or who asked to be included on the Board's e-mail service list for this process, regardless of the extent to which they actually attended the workshops.

## **II. DISCUSSION**

The Board originally asked the Working Group to provide recommendations on fourteen technical questions. The Working Group provided consensus recommendations on thirteen of these questions,<sup>5</sup> and made an additional recommendation to the Board on an issue that the Working Group chose to clarify.<sup>6</sup>

### *Exemption Mechanism Process*

Many of the Board's questions related to the details of the exemption mechanism process. In order to address these questions, the Working Group developed several documents that can be provided to customers interested in understanding how the exemption mechanism process will work.

The first of these documents is a list of the information that must be provided in an EEC exemption application.<sup>7</sup> We conclude that the information requirements are reasonable, since the provision of this information will enable the Board to determine whether the customer meets one of the statutory criteria for an exemption.<sup>8</sup> Therefore, applicants for an EEC exemption shall provide the information listed in Appendix B to this Order.

Two additional documents developed by the Working Group describe the steps in the EEC exemption process and the timeline for the EEC exemption process. We have reviewed these documents and conclude that the exemption process described therein is reasonable. The proposed exemption process and timeline provide for appropriate and timely review of EEC exemption applications. They include a mechanism for resolving disputes that does not involve

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5. The only issue on which the Working Group did not reach consensus related to ways of mitigating the possible rate impacts of granting exemptions on customers who continue to pay the EEC. This issue is addressed later in this Order.

6. The Working Group's answers to the Board's questions are Appendix A to this Order.

7. The list of information to be provided in an EEC exemption application is Appendix B to this Order.

8. Title 30 V.S.A. § 209(d)(4) authorizes the Board to grant an EEC exemption "only if, at a minimum, a customer demonstrates that, during the preceding year, it implemented an extraordinary amount of cost-effective energy efficiency at the customer's own expense or incurred extraordinary costs on those measures and the customer did not and will not receive reimbursement for those measures from the [EEU]."

formal litigation before the Board (mediation by the EEU Contract Administrator), while still providing that the Board will make the final decision on all applications. Therefore, the EEC exemption mechanism process and timeline shall be those set forth in Appendix C to this Order.

However, because of the timing of the Working Group's recommendation and this decision, it will not be possible to follow the timeline set forth in Appendix C for applications for exemptions from the 2008 EEC. As we stated in our January 8, 2007, Order, our goal has been to provide customers with an opportunity to apply for an exemption from the 2008 EEC. In recognition of this goal, we asked the Working Group for a recommendation on whether the schedule for applying for an exemption should be modified in the first year. The Working Group recommended that the initial application deadline, and the EEU's deadline for review and response, be waived for applications for exemptions from the 2008 EEC, and that all other time periods for review should be those set forth in Appendix C. We accept this recommendation.

### *Technical Questions*

Several of the Board's questions concerned technical standards and baselines. After reviewing the Working Group's recommendations on these issues,<sup>9</sup> we conclude they are appropriate and should be adopted. Therefore, the technical standards that will be used to determine what constitutes an extraordinary amount of cost-effective energy efficiency will be:

- for new construction or equipment replacement projects — exceed the Commercial Building Energy Standard ("CBES") by at least 40 percent;
- for new projects not covered by CBES or another standard code — at least 40 percent more efficient than the standard equipment that would typically be used; and
- for projects in which the equipment to be replaced still has usable life and energy savings is the primary factor in making the switch (referred to as "retrofit projects") — be comprehensive in scope and include all cost-effective efficiency measures for the project as assessed by the statewide screening tool.<sup>10</sup>

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9. These recommendations on technical standards and baselines were originally developed by a sub-group of the Working Group, and were later adopted by the full Working Group.

10. For example, for a lighting retrofit to be considered comprehensive, it should include fixtures, controls, occupancy sensors (if warranted) and reflect an approach designed to maximize energy savings.

The baselines for energy efficiency projects will be:

- for all non-custom projects — the baseline assumptions contained in Efficiency Vermont's Technical Reference Manual;<sup>11</sup>
- for new construction and equipment replacement — CBES or prevailing code;
- for projects not covered by CBES or another code or standard — the standard equipment available in the market.

Documentation of proposed baselines is the sole responsibility of the customer applying for an EEC exemption.

Participant measure costs will be defined as:

- for retrofit projects, building improvements, or replacing operating equipment with remaining useful life — the full costs of the equipment and installation;
- for new buildings or equipment — the incremental costs of higher efficiency equipment or buildings above the baseline costs of the equipment, installation and associated expenses.

Eligible non-equipment and installation costs must not exceed:

- 15 percent of the total amount for retrofit projects;
- 25 percent of the total amount for new buildings or equipment.

### *Rate Impact Issues*

The Board asked the Working Group two questions related to rate impacts. First, if EEC exemptions are granted, what are the possible rate impacts to customers who continue to pay the EEC? And second, are there steps that should be taken to minimize those rate impacts?

The Working Group stated that it did not attempt to estimate specific rate impacts because of the uncertainty of ratepayer participation in the exemption process. However, the Working Group recognized that, as clarified by our March 14, 2007, Order regarding an EEC exemption mechanism, the granting of EEC exemptions will result in the collection of less revenue unless EEC rates are increased to make up the difference.

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11. Efficiency Vermont and BED will provide assistance in the use of the Technical Reference Manual and interpreting CBES.

The Working Group was unable to reach consensus on rate-impact mitigation strategies. Working Group members suggested three possible strategies: (1) for a pilot period, cover the exemption short-fall with an equal amount from the regional Forward Capacity Market transition period payments; (2) adjust future collections to recover exempted amounts over a three-year period rather than a one-year period; and (3) reconsider adjusting the EEU's budget to reflect exempted revenue.

We do not adopt any of these proposed mitigation strategies at this time. Because we do not know to what extent customers will apply for, and qualify for, EEC exemptions, we are unable to quantify the magnitude of possible rate impacts. Since we do not know the magnitude of possible rate impacts, we are unable to determine what might be an appropriate strategy for mitigating them, or indeed if any mitigation is necessary. Therefore, we determine that we will consider possible rate-impact mitigation strategies at such time as EEC exemptions cause meaningful rate impacts.

### *Miscellaneous Issues*

The Board asked the Working Group whether there should be any limits to the technical assistance that Efficiency Vermont may provide to a customer on a particular project before that project could no longer be used to support a request for an exemption, and if so, what those limits should be. The Working Group recommended that there should be no limit to the technical assistance provided by Efficiency Vermont or BED. However, the Working Group recommended that Efficiency Vermont or BED should be able to count 60 percent of the energy savings resulting from an energy efficiency project used to support an EEC exemption towards its performance goals.<sup>12</sup> Since historically, Efficiency Vermont's non-incentive costs have been, on average, 60 percent of its total costs, allowing Efficiency Vermont or BED to count the same portion of the energy savings from projects used to support EEC exemptions would recognize that Efficiency Vermont or BED is likely to incur similar levels of costs for technical assistance

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12. The Working Group's response to question 11 in Attachment A addresses this issue. In this response, the Working Group sometimes refers to the EEU, which includes BED, and sometimes just to Efficiency Vermont. Since both Efficiency Vermont and BED have performance goals related to their implementation of EEU services, we interpret the Working Group's recommendations on this issue to apply to both Efficiency Vermont and BED.

to customers on projects used to support EEC exemptions. It would also ensure that the EEU is neutral regarding whether the customer seeks an EEC exemption or accepts an EEU incentive. We are persuaded that this approach is reasonable, and hereby adopt it.

The Board asked the Working Group whether an EEC exemption should apply to bills rendered February of one calendar year to February of the next calendar year, or to a customer's actual calendar-year payments. The Working Group recommended that an EEC exemption apply to bills rendered February to February, which corresponds to the EEC billing year. According to the Working Group, this will enable the electric distribution utilities to minimize their administrative expenses associated with implementing the exemptions since changes to the utilities' billing systems could be made at the same time as changes regarding new EEC rates. Minimizing the administrative costs of implementing EEC exemptions is an important goal. Accordingly, we determine that EEC exemptions will apply to bills rendered February to February.

Finally, the Working Group chose to clarify one issue that the Board did not specifically ask it to consider. The Working Group recommended that the Board authorize Vermont Energy Investment Corporation ("VEIC"), which is the contractor currently serving as Efficiency Vermont, to claim, for the purpose of participating in the regional Forward Capacity Market on behalf of the state's ratepayers, the capacity reductions resulting from projects that are the subject of EEC exemptions. We adopt this recommendation, with the clarification that either VEIC or BED should claim the capacity reductions, depending upon whether the customer receiving the EEC exemption is a BED ratepayer or not. It is in the state's interest for our energy efficiency investments to receive the largest possible payments from the regional Forward Capacity Market. To do so requires the capacity savings from the energy efficiency investments to be bid into the regional market. There are not insignificant costs associated with participation in this market, and very few, if any, electric ratepayers are likely to be willing to incur those costs. Therefore, rather than lose the capacity value of the investments, we will authorize VEIC and BED to claim them, on behalf of ratepayers. Thus, customers who wish to use an energy efficiency project to support an EEC exemption application must agree to allow VEIC or BED to claim the capacity savings associated with the project. This requirement will be stated on the EEC exemption

application materials to ensure that potential exemption applicants are informed of the requirement.

### **III. CONCLUSION**

In this Order, we adopt all of the recommendations of the Working Group for the reasons described above. We also clarify that either VEIC or BED will be able to claim the capacity reductions associated with an energy efficiency project that supports an EEC exemption, depending on whether the customer receiving the exemption is a BED ratepayer or not. In addition, we note that we will consider possible strategies for mitigating the rate impacts resulting from granting EEC exemptions at such time as EEC exemptions cause meaningful rate impacts.

### **IV. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The recommendations of the Working Group are adopted, with the clarification that either Vermont Energy Investment Corporation ("VEIC") or the City of Burlington Electric Department ("BED") will be able to claim the capacity reductions associated with an energy efficiency project that supports an Energy Efficiency Charge ("EEC") exemption. If a customer receiving an EEC exemption is a BED ratepayer, then BED shall, on behalf of ratepayers, claim the capacity reductions resulting from the energy efficiency investments used to support the EEC exemption. If a customer receiving an EEC exemption is not a BED ratepayer, VEIC, on behalf of ratepayers, shall claim the capacity reductions resulting from energy efficiency investments used to support the EEC exemption. A customer who wishes to use an energy efficiency project must agree to support an EEC exemption application must agree to allow VEIC (or BED, for customers within BED's service territory) to claim the capacity savings associated with the project.
2. Applicants for an EEC exemption shall provide the information listed in Appendix B to this Order.

3. The EEC exemption mechanism process and timeline shall be those set forth in Appendix C to this Order.

4. The initial application deadline, and the EEU's deadline for review and response, shall be waived for applications for exemptions from the 2008 EEC. All other time periods for review shall be those set forth in Appendix C to this Order.

5. The technical standards that shall be used to determine what constitutes an extraordinary amount of cost-effective energy efficiency shall be:

- for new construction or equipment replacement projects — exceed the Commercial Building Energy Standard ("CBES") by at least 40 percent;
- for new projects not covered by CBES or another standard code — at least 40 percent more efficient than the standard equipment that would typically be used; and
- for projects in which the equipment to be replaced still has usable life and energy savings is the primary factor in making the switch (referred to as "retrofit projects") — be comprehensive in scope and include all cost-effective efficiency measures for the project as assessed by the statewide screening tool.

6. Baselines for energy efficiency projects shall be:

- for all non-custom projects — the baseline assumptions contained in Efficiency Vermont's Technical Reference Manual;
- for new construction and equipment replacement — CBES or prevailing code;
- for projects not covered by CBES or another code or standard — the standard equipment available in the market.

Documentation of proposed baselines shall be the sole responsibility of the customer applying for an EEC exemption.

7. Participant measure costs shall be defined as:

- for retrofit projects, building improvements, or replacing operating equipment with remaining useful life — the full costs of the equipment and installation;
- for new buildings or equipment — the incremental costs of higher efficiency equipment or buildings above the baseline costs of the equipment, installation and associated expenses.

Eligible non-equipment and installation costs shall not exceed:

- 15 percent of the total amount for retrofit projects;
- 25 percent of the total amount for new buildings or equipment.



8. There shall be no limit to the technical assistance that Efficiency Vermont or BED may provide to a customer before a project could no longer be used to support a request for an EEC exemption. However, Efficiency Vermont or BED shall be able to count 60 percent of the energy savings resulting from an energy efficiency project used to support an EEC exemption towards its performance goals.

9. EEC exemptions shall apply to bills rendered February of one year to February of the next calendar year.

Dated at Montpelier, Vermont, this 28<sup>th</sup> day of September, 2007.

<u>s/James Volz</u>	)	
	)	
	)	PUBLIC SERVICE
<u>s/David C. Coen</u>	)	
	)	BOARD
	)	
	)	OF VERMONT
<u>s/John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: September 28, 2007

ATTEST: s/Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*